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2004 JAN 20 P 3:19

U.S. DISTRICT COURT
DISTRICT OF MASS.

January 15, 2004

Clerk's Office
United States District Court
One Courthouse Way
Boston, MA 02210

Re: United States v. Kenneth Wagner, Dkt# 03-10364-RWZ

Dear Sir/Madam:

Please find enclosed for filing defendant Kenneth Wagner's
initial discovery letter.

Sincerely,

James Budreau

JAMES H. BUDREAU
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U.S. DISTRICT COURT
DISTRICT OF MASS.

January 15, 2004

Nadine Pellegrini
Assistant United States Attorney
U.S. Attorney's Office
One Courthouse Way
Boston, MA 02210

Dear Nadine:

Please be advised that I have not received any automatic discovery in the above referenced case. Additionally, I would like to make the following requests for discovery on behalf of Mr. Wagner:

1. All documents in your possession and/or control which establish or support your claim that Mr. Wagner knowingly or intelligently omitted or provided incomplete or false material psychological or medical information to the Federal Aviation Administration (FAA) or any other federal or state agency.
2. All statements by Mr. Wagner, whether committed to writing or not, in your possession and/or control which establish or support your claim that Mr. Wagner knowingly or intelligently omitted or provided incomplete or false material psychological or medical information to the Federal Aviation Administration (FAA) or any other federal or state agency.
3. All documents in your possession and/or control which establish or support your claim that Mr. Wagner knowingly or intelligently omitted or provided incomplete or false information to an United States agency or official if not already provided in your response to request #1 above.
4. All statements by Mr. Wagner, whether committed to writing or not, in your possession and/or control which establish or support your claim that Mr. Wagner knowingly or intelligently omitted or provided incomplete or false material information to an United States agency or official.
5. All Mr. Wagner's medical or psychological treatment records that are in your possession and/or control. Additionally, please identify the means by which each document was

received (chain of custody) by your office as well as by the FAA or any other agency which has possession of such documents.

6. All written releases and authorizations signed by Mr. Wagner which permitted the release and redistribution of the Mr. Wagner's psychological or medical treatment records to the United States Attorney's Office.

7. Any statements and or other authorizations that the United States Attorney's Office is relying upon for its acquisition of and possession of Mr. Wagner's private medical and psychological treatment records.

8. All evidence including, but not limited to, statements of third parties and documents in your possession and/or control that demonstrate that Mr. Wagner failed to or was unable to perform his duties properly or up to FAA safety standards when he worked as a flight controller at Logan International Airport during his tenure there.

9. All evidence including, but not limited to, statements of third parties or documents in your possession and/or control that demonstrate that Mr. Wagner performed his duties properly and in compliance with FAA safety standards when he worked as a flight controller at Logan International Airport during his tenure there.

10. All evidence, including but not limited to, statements by witness or experts as well as documents in your possession and/or control which establish the protocols for certifying a person for medical/psychological readiness to perform his or her duties as a flight controller with the FAA.

11. All evidence which demonstrates that other flight controllers at Logan Airport, who have either been caught drinking or using drugs on the job or who have voluntarily informed the FAA or been determined through other means that they have had a drug or alcohol problem, have not been indicted by the federal government or been recommended for prosecution by the FAA.

12. All evidence in your possession and/or control that Mr. Wagner did not know or understand that he was required to disclose his medical or psychological condition to the FAA during his tenure at Logan International Airport.

13. All evidence relating to the FAA's pattern and practice of certifying flight controllers for medical readiness who have been diagnosed with depression, taking medication for depression or who have any other psychological condition or problem.

14. All internal memoranda from the FAA relating to the investigation of Mr. Wagner which demonstrate or reveal animus toward or bias against him or which demonstrate a bias against or prejudice toward his psychological or medical conditions including but not limited to depression.

As I have not received automatic discovery, I am reserving my right to file additional

requests. Additionally, once I receive responses, I reserve my right to supplement this letter with additional requests if pertinent.

Sincerely,

James Budreau

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over the printed name "James Budreau".